

# WHAT'S NEW

## ISSUE 4 - April 2012

In an effort to keep the Labour Relations Community informed on an ongoing basis of happenings at the Labour Relations Board, the Board produces a monthly newsletter - "What's New." The following is Issue 4 for 2012.

### NEWS AROUND THE BOARD

The Board is in the process of scheduling a special Education Caucus for Tuesday, May 15, 2012. This Caucus will be a first for the Board as we will be testing video conferencing equipment recently purchased by the Board. The Caucus will be held in both Edmonton and Calgary at the same time with Board members attending at their closest respective Board office for the session.

### YEAR END STATISTICS

The Alberta Labour Relations Board has seen a significant increase in the workload for the 2011/2012 fiscal period. Applications are up 47% and the number of Hearings has risen by approximately 12%. The Board has also seen an increase in the number of matters that were resolved without formal adjudication. Last year at this time, 55% of the files had been resolved without going to hearing, whereas to date this year, 73% have been resolved without formal adjudication.

The Board saw the most significant rise in applications in:

	<b>Apr 1/10-Mar 31/11</b>	<b>Apr 1/11 – Mar 31/12</b>
<b>Appeals</b>	8	18
<b>Certification<sup>1</sup></b>	125	156
<b>Bad Faith Bargaining</b>	23	39
<b>UFLP</b>	396	745

Of the 743 Unfair Labour Practice Complaints received, 137 were Duty of Fair Representation. 134 Duty of Fair Representation complaints were concluded as follows:

#### **Duty of Fair Representation**

<b>Section</b>	<b>Incomplete</b>	<b>Withdrawn</b>	<b>Settled</b>	<b>Dismissed</b>	<b>Granted</b>	<b>Total</b>
153(1)	4	19	29	80	2	134

**Conclusions for Certifications, Revocations and Strike/Lockouts were as follows:**

**Certification<sup>1</sup>**

Section	Withdrawn	Refused Numbers	Refused Unit	Refused Multiple	Refused Other	Refused Lost Vote	Certified	Total
32	40	2	3	19	3	8	88	163
f16							2	2

<sup>1</sup>Note: Certification numbers vary from the Case Resolution statistics reported on web site. The Case Resolution statistic counts every bargaining relationship attached to the Certification application.

**Revocation**

Section	Withdrawn	Refused Other	Refused Lost Vote	Revoked Certification	Revoked V.R.	Total
51(1ee)	4	2	2	2	1	12
51(er)		1		2		3
55(1)				1		1

**Strike/Lockout**

	Withdrawn	Incomplete	For	Total
	5	1	27	33

**RECENT CASES**

*Nor-Man Regional Health Authority Inc. v. Manitoba Association of Health Care Professionals* (S.C.C.) (December 2, 2011)

The Supreme Court of Canada recently issued a decision finding an arbitral award applying common law or equitable remedies is reviewable on the reasonableness standard as opposed to the correctness standard. The Court further found arbitrators are not required to apply these common law or equitable principles in the same way courts apply them.

While common law and equitable remedies emanate from the courts, arbitrators possess both the legal authority and the expertise to apply them in a manner more appropriate to resolving disputes in the labour relations context. As stated by the Court,

“To this end, they may properly develop doctrines and fashion remedies appropriate in their field, drawing inspiration from general legal principles, the objectives and purposes of the statutory scheme, the principles of labour relations, the nature of the collective bargaining process, and the factual matrix of the grievances of which they are seized.”

While the Court made clear arbitrators possess the flexibility to adapt labour specific remedial doctrines that are subject to deference on review, it went on to state such discretion has boundaries. An arbitral award that flexes a common law or equitable principle beyond the bounds of reasonableness, remains subject to judicial review on the basis it is unreasonable.

While the decision specifically addresses the deference and flexibility possessed by arbitrators in the labour relations context, these findings would appear to apply equally to decisions made by labour boards.

#### **CONFERENCES:**

- [Labour Law Conference](#) - April 11-12, 2012 - Ottawa, ON
- [Council of Canadian Administrative Tribunals](#) - May 13-15, 2012 - Calgary Alberta
- 49th Annual Conference for the Canadian Industrial Relations Association (CIRA). The conference is being held in Calgary from May 29-31, 2012. For more information follow this link: <http://acri-cira2012.blogspot.com/>.
- [Labour Arbitration and Policy Conference](#) - May 30-31, 2012 - Calgary, Alberta
- Canadian Labour Board Law Conference - October 16-17, 2012 - Toronto, Ontario